

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FORT SMITH DIVISION

ERIC ROSHAUN THURAIRAJAH

PLAINTIFF

v.

No. 2:16-CV-02123

BILL HOLLENBECK, individually and in
his official capacity as Sheriff for the County
of Sebastian, et al.

DEFENDANTS

ORDER

Separate Defendant Bill Hollenbeck has filed a joint stipulation of dismissal (Doc. 53) dismissing Plaintiff Eric Roshaun Thuraiarah's official and individual capacity claims against Defendant Hollenbeck with prejudice pursuant to settlement between the parties. Federal Rule of Civil Procedure 41(a)(1)(A)(ii) allows a plaintiff to dismiss an action against a defendant without a court order by filing a stipulation of dismissal signed by all appearing parties. The stipulation here represents that Plaintiff's counsel authorized counsel for Defendant Hollenbeck to sign for him and file the stipulation. However, the only signature appearing on the Defendant-filed stipulation is the signature of counsel for Defendant Hollenbeck. These formal shortcomings prevent dismissal by stipulation without a court order.

Formal shortcomings notwithstanding, Rule 41(a)(2) allows an action to be dismissed "at the plaintiff's request . . . by court order, on terms that the court considers proper." The Court's law clerk confirmed in telephone conversation with Plaintiff's counsel that Plaintiff and Defendant Hollenbeck have reached a settlement and, through counsel, Plaintiff authorized Defendant to sign and file a stipulation of dismissal with prejudice on his behalf. The Court will construe this stipulation as a Rule 41(a)(2) request from Plaintiff to dismiss his claims against Defendant Hollenbeck with prejudice, and will grant that request.

IT IS THEREFORE ORDERED that Plaintiff's official and individual capacity claims against Defendant Bill Hollenbeck are DISMISSED WITH PREJUDICE. Trial over the damages Plaintiff can recover against Trooper Lagarian Cross and the State of Arkansas remains pending.

IT IS SO ORDERED this 7th day of August, 2019.

/s/ P. K. Holmes, III

P.K. HOLMES, III
U.S. DISTRICT JUDGE